HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 300 OF 2005

DATED: 22.10.2007

Between:

P. Ramu and others

… Petitioners

and

State of A.P. represented by its Principal Secretary, Municipal Administration, Hyderabad and another

… Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.300 OF 2005

ORAL ORDER:

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The writ petition is filed complaining that the respondents, in particular, the 2nd respondent-Corporation has failed to provide a 'closed drainage system' for passage of sewerage and other effluents in the Shivajinagar area of the Corporation and also that the respondent is planning to construct a 'Sulabh Complex' at the under bridge area in Shivajinagar, thereby failing to protect the environment where the petitioners reside.

The Corporation has filed a counter affidavit. It is stated that there is a 15 feet wide open drainage in Shivajinagar and that this drainage is maintained by the answering respondent daily and it is duly ensured that there is no stagnation of water and effluents in the drainage. It is further pleaded that the respondent is maintaining the drains properly to prevent malodour and is regularly spreading Bytex and Malaria Larva oil, to prevent the spread or genesis of diseases. Regarding the allegation as to the proposal to construct a 'Sulabh Complex' near the under bridge, the answering respondent states that

there is a proposal for construction of a 'Sulabh Complex' by the S.C. Corporation on the opposite side of the lane in relation to the petitioners' residences. The counter states that there is 100 feet wide road between the petitioners' property and the proposed location of the 'Sulabh Complex'. It is also alleged by the respondent that the petitioners had encroached the drain and this unauthorized encroachment was removed by the Corporation.

In the light of the averments in the counter affidavit, the grievance of the petitioners does not subsist as it is clearly and categorically asserted that appropriate steps are taken to keep the drain free from stagnation and is regularly maintained by spraying the anti-Malarial Larva liquids.

The contention of Sri T.S. Anand, the learned counsel for the petitioners, that an open drain system is archaic and closed drainage is the only effective measure of maintaining sanitation in urban locations, does not commend acceptance by this court. While the local authorities are obligated statutorily to maintain and provide a hygienic environment and urban habitat and while this obligation is irrespective of the financial ability of the local authority, it is not as if the local authority does not have a choice in a matter of ensuring hygiene. As the underground system may be capital intensive, it is perfectly legitimate for the local authorities to choose the less expensive alternative of continuing with an open drainage system by keeping the drainage properly maintained.

On the analysis above, there are no merits in the writ petition. The writ petition is dismissed. There shall be no order as to costs.

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GODA RAGHURAM, J

Date: 22.10.2007
cvm